FOR MYSORE STATE

Revenue. (195) Department.

SERIES.

G.O. NO. 566

Dated 1-3-1950

[Despatch Abstract.]

Tax - The Madras General Sales Tax Act, 1939 - Textiles Mill cloth Procurement from Bombay surplus areas - Certain transaction of representative buyers - Exempted from sales tax - Notification under section 6 (1) of the Act.

Revenue Department.

NOTE FOR THE CABINET.

Tax - The Madras General Sales Tax Act, 1939 - Textiles - Mill cloth - Procurement from Bombay surplus areas - Transactions of representative buyers - Liability to Sales Tax - Exemption.

In connection with the procurment of mill cloth allotted to this Province the Government approved the proposals of the Provincial Textile Commissioner for the appointment of representative buyers, According to these prpposals the representative buyers went to Bombay and other centres, made purchases of cloth from the mills in Bombay surplus area and consigned the goods to the wholesale consignees in this Province sending them to railway receipts through local banks. The wholesale consignees paid the amount to the banks and took delivery of the cloth.

2. In fixing the margins of profits in the case of mill cloth procured from Bombay surplus area, no provision was made towards sales tax at the stage of sale by the representative buyers to the wholesale consignees. The omission was based on the view held by the Board of Revenue that no sales- tax would be payable on the scale by a representative buyer to a wholesale consignee as the goods were invoiced outside the Province and the sale was completed at Bombary.

3. However in December 1948 the Provincial Textile Commissioner brought to the notice of Government that Commercial Tax Officers held that sales by the representative buyers to the wholesale consignees were liable to sales tax. He suggested that the representative buyers' transactions in this Province might be exempted from sales-tax in view of the fact that no provision had been made in this regard in fixing the margin of profit to be allowed to the representative buyers. The question of representative buyers' liability to sales-tax was again examined and it was held that as the representative buyer was a resident of this Province he would be liable to pay the tax under the Act unless exempted under section 6 of the Act.

4. Subsequent to this, the Government approved the proposal of the Provincial Textile Commissioner to amalgamate the functions of the representative buyers and the wholesale consignee. By this aggangement, the representative buyer would not deliver cloth to the wholesale consignee but would act himself as the wholesale consignee and would distribute the cloth to the wholesale dealers in the district. The representative buyer in his capacity as wholesale consignee would have to pay sales tax on the turnover of his sales to the wholesale dealers and provision had been made for this in fixing the margin of profit. This arraggement was given effect to for the purhhase of February 1949 allotments from Bombay and Ahmedabad centres and for March 1949 allotments from Barcda and Sholapur and Bombay mufassal centres. Prior to this, the independent representative buyers lifted the quotas of November and December 1948 and January 1949 from Bombay and Ahmedabad centres and the quotas of November 1948, December 1948, January 1949 and February 1949 from Baroda, Sholapur and Bombay mufussil mills centres. The Provincial Textile Commissioner suggested that such of the independent representative buyers who have since ceased to exist as such may be exempted from assessment to sales-tax on the turnover of their sales to independent wholesale consignees. The Kanara Chamber of commerce on behalf of the representative buyers requested the same concession. The reasons for the Provincial Textile Commissioner's recommendation are the following:-

(1) The Board of Revenue held the view in its reference T.8043/48-1 dated 24-9-1949 that the first incidence of sales-tax begins only at the stage of sale by the wholesale dealer to the retail dealer; As a result of this view the sales tax for sale by the representative buyer to the wholesale consignee was not provided for in the proposals for fixing the profit margins;

(2) The wholesale consignee is a new creation of the present control and there was no such wholesale consignee in the last control;

(3) Sale tax has been provided for and will be levied on the sale of stock by the wholesale consignees to the wholesale dealers; and

(4) the proft margins have been fixed without making any provision for the payment of sales tax at this point.

5. The Board of Revenue which was consulted on the suggestion, refuted the charge of its responsibility for the anomaly, stating that the ruling given by it was based on facts then presented to it and that judge by these facts its ruling was correct. However, it recommended the suggestion of the Provincial Textile Commissioner.

6. The proposal now is to issue orders under section 6 of the Madras General Sales Tax Act, 1939 exempting from liability to sales tax the transaction of the representative buyers referred to at 'A' in para4 above. The loss of revenue involved in this proposal is reported to be about 9-1/2 to 10 lakhs non-recurring. Development and this departmend agreed to this proposal. Finance suggested that approval of the Standing Finance Committee and the Cabinet should be obtained. The proposal was accordingly referred to the standing Finance Committee. The Committee approved the proposal.

7. Orders of the Cabinet are requested whether the transactions of the representative buyers referred to at 'A' in para 4 above may be exempted from liability to sales tax by a notification under section 6 of the Madras General Sales Tax Act, 1939.

B.Gopala Reddi.
Hon'ble Minister for Finance.

STRICTLY CONFIDENTIAL.

Government of Madras.

Meeting of the Council of Ministers held at Fort St. George on Monday the 6th and Tuesday the 7th February 1950 at 11 A.M.

The Hon'ble the Chief Minister presided.

Present. The Hon.Dr.T.S.S.Rajan.
" Sri M.Bhaktavatsalam.
" Sri B.Gopala Reddi.
" Sri K.Madhava Menon.
" Sri H.Sitaram Reddy.
" Sri A.B.Shetty.
" Sri K Chandramouli - p.t.o.

The Hon.Sri B.Parameswaran (Was not present on the 7th)

" Sri N.Sanjiva Reddy.
" Sri B.Perumalswamy Reddy.
" Sri J.L.P.Roche Victoria.

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AGENDA

26(6) - The Madras General Sales Tax Act,1939 - Textiles Mill cloth - Procurment from Bombay surplus areas - Transactions of representative buyers - Liability to sales tax - exemption.

ORDER:

A P P R O V E D .

K.R.M.
7-2-50

P.S.Kumaraswamy Raja.
Chief Minister.

Development Department.

To A.S.

Revenue Dept.U.O.

U.O.No. 1895 M I/50-1
9-2-50

/True extracts/

M.V.Bhavelkar
Superintendent.

.5/6

Inspected by:

ABSTRACT.

Tax - The Madras General Sales Tax Act, 1939 - Textiles - Mill Cloth - Procurement from Bombay surplus areas - Certain transaction of representative buyers - Exempted from sales-tax - Notification under section 6 (1) of the Act - Published.

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REVENUE DEPARTMENT.

G.O.Ms.No.566 Dated the 1st March 1950.
Read the following:-

Letter from the Provincial Textile Commissioner, dated 17th May 1949,R.C.No.C.5/72102/48.
Government Memorandum No.53140-M.I./49-1,Development, dated the 23rd May 1949.
Letter from the Honorary Secretary, the Madras Piece Goods Merchants' Association, dated 4th June 1949.
Letter from the Provincial Textile Commissioner,dated 4th June 1949,Rc.No.C.5/72102/48.
From the Board of Revenue,dated the 15th June 1949,Ref. No.A.432/48-3.
Letter from the Honorary Secretary, the Kanara Chamber of Commerce,Mangalore, dated 12th June 1949.

ORDER:-

The Government accept the recommendation of the Provincial Textile Commissioner, now the Director of Controlled Commodities, that the independent representative buyers who lifted the quotas (mill cloth) of November and December 1948 and January 1949 from Bombay and Ahmedabad centres and the quotas of November 1948, December 1948,January and February 1949 from Baroda, Sholapur and Bombay mufassal mills centres may be exempted from assessment to sales-tax on the turnover of their sales to independent wholesale consignees.

2. The appended notification will be published in the Fort St. George Gazette.

(By Order of His Excellency the Governor)

V.K.Rao
Deputy Secretary to Government.

To
The Board of Revenue (Commercial Taxes)
" The Deputy Commissioners of Commercial Taxes.
" all Commercial Tax Officers (with copies to Deputy Commercial Tax Officers and Assistant Commercial Tax Officers.)
" the Legal Department.
" the Development Department.
" the Public works Department (Information and Publicity)
" Director of Controlled Commodities,Madras.
" Accountant General,Madras.
" Superintendent Government Press,for publication of the notification.

/True copy/

Superintendent.

nr.5/6

APPENDIX.

NOTIFICATION.

In exercise of the powers conferred by section 6(1) of the Madras General Sales Tax Act, 1939 (Madras Act IX of 1939), His Excellency the Governor of Madras hereby exempts every person who acted as independent representative buyer and lifted the quotas (mill cloth) of November and December 1948 and January 1949 from Bombay and Ahmedabad centres and the quotas of November 1948, December 1948, January 1949 and February 1949 from Baroda, Sholapur and Bombay mufassal mills centres from payment of tax under section 3(1) of the said Act in respect of his sales to independent wholesale consignees